

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 BURT BOBBY DANIELS,

10 Plaintiff,

11 v.

12 ASSOCIATE SUPERINTENDENT HARRIS,  
*et al.*,

13 Defendants.

No. 09-5542RJB/JRC

ORDER

14  
15 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned  
16 Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local  
17 Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's motion  
18 asking for appointment of counsel (Dkt. # 7).

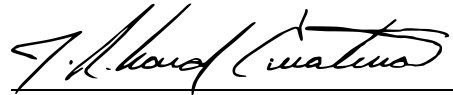
19 There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. §  
20 1983. Although the court can request counsel to represent a party pursuant to 28 U.S.C. §  
21 1915(e) (1), the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789  
22 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984);  
23 Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances  
24 requires an evaluation of both the likelihood of success on the merits and the ability of the  
25  
26

1 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.  
2 Wilborn, 789 F.2d at 1331.

3 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 5).  
4 This case is not in a posture where the court can determine the likelihood of success on the  
5 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 7) is **DENIED**.

6 The Clerk's Office is directed to send plaintiff a copy of this order and remove (Dkt. # 7)  
7 from the Court's calendar.  
8

9 DATED this 10<sup>th</sup> day of November, 2009.

10  
11   
12 J. Richard Creatura  
13 United States Magistrate Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26